



PRESERVATION HOTLINE #3

South Carolina State Historic Preservation Office, South Carolina Department of Archives and History

scdah.sc.gov

Is There a Highway Project in Your Future?

If so... there are Federal and State laws that affect where a road may or may not be built. Some are:

- *Section 106 of the National Historic Preservation Act* and the regulations of the Advisory Council on Historic Preservation at 36 CFR Part 800 to protect historic properties which may be affected by federal undertakings.
- *Section 4(f) of the Department of Transportation Act of 1966* protects historic properties, public parks, and wildlife refuges from loss to federal transportation projects.
- *South Carolina Code of Laws 60-12* offers some consideration for National Register-listed properties owned by state agencies.
- *National Environmental Policy Act (NEPA)* requires major federal undertakings to complete an environmental assessment.
- Laws relating to the protection of wetlands, special areas, and endangered species.

Do any of these laws apply? To determine this, you need to know:

- Where is the project and why is it being planned?
- How is the project being funded? Local, state or federal funds?
- Are there any Federal or State permits involved?
- Who supports the project and would like to see it built?

Differences between Sections 106 and 4(f)

Section 106 of the National Historic Preservation Act and Section 4(f) of the U.S. Department of Transportation Act are the primary laws governing consideration for historic properties in planning transportation projects.

Section 106 requires federal agencies whose **undertakings** may affect **historic properties** to take the properties into consideration and consult with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation to avoid or reduce any **adverse effects**. Under Section 106, the South Carolina Department of Transportation (SCDOT) and the Federal Highway Administration (FHWA) consult with the South Carolina SHPO and other interested parties when planning highway projects that involve federal funds or permits. This generally involves a process of developing reasonable solutions that provide safe highways while avoiding adverse effects to historic properties. If adverse effects cannot be avoided, agreements are negotiated to minimize or mitigate those effects.

Section 4(f) prohibits the U.S. Secretary of Transportation from approving any project that **uses** land from any **historic site**, public park area, or wildlife refuge if there is a **feasible and prudent alternative** to the use. All possible planning to minimize harm to the historic site must be undertaken if there is no feasible and prudent alternative. The SCDOT consults primarily with the FHWA in carrying out the Section 4(f) process.

More information on the differences between Section 106 of the National Historic Preservation Act, and Section 4(f) of the Department of Transportation Act can be found at:

https://www.environment.fhwa.dot.gov/env_topics/4f_tutorial/related.aspx

To determine if there may be a highway project in your future:

- The Statewide Transportation Improvement Program (STIP) is a comprehensive report listing the various projects in which work activity is planned within the next six years. More information on the current STIP can be found here: <https://www.scdot.org/inside/planning-stip.aspx>.
- Contact the Metropolitan Planning Organization (MPO) or the South Carolina Council of Government (SC COG) for your area. In South Carolina, Transportation planning is a cooperative effort between the SCDOT and the MPO, COG, and transit providers.
 - A list of the MPOs can be found here: https://www.scdot.org/projects/pdf/Safe_Routes/SRTS-MPOs.pdf.
 - Information on the SC COGs can be found here: <https://www.sccogs.org/>.
 - For more information visit the SCDOT website at: <https://www.scdot.org/inside/planning.aspx>.

For more information:

SC SHPO Review Coordinator for Transportation Projects: 803-896-6184

State Historic Preservation Office website: <http://shpo.sc.gov>

Federal Highway Administration website: www.fhwa.dot.gov/

SCDOT website: <https://www.scdot.org/>

Advisory Council on Historic Preservation: <https://www.achp.gov/>

Questions? SC Department of Archives & History / 8301 Parklane Road / Columbia, SC 29223 / 803-896-6184

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